**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH**
**AT HYDERABAD**

## HON'BLE Mr. JUSTICE R. SUBHASH REDDY

**Writ Petition No.3122 of 2006**

**Dated: March 14, 2006**

**Between:**

Nehru Memorial Committee Aided Elementary
School rep. by its Correspondent Dara Surya Dasu,
S/o. Seshadasu, Hindu, aged about 80 years,
R/o. Chilakaluripet, Guntur District.

… Petitioner

And

Govt. of Andhra Pradesh rep. by its Principal
Secretary, Education Department (Primary Education),
Secretariat Buildings, Saifabad, Hyderabad, and
two others.

… Respondents

**Order:**

This Writ Petition has been filed seeking Writ of Mandamus to declare the action of the respondents in not filling up two vacant posts of Secondary Grade Teachers in the petitioner-school as illegal and arbitrary and a consequential direction is also sought to direct the respondents to fill up the said posts.

2. When the petitioner-school has addressed to the District Educational Officer, Guntur, the third respondent herein, seeking permission to fill up two vacant posts of Secondary Grade Teachers in its school, the third respondent, by proceedings Rc.No.1309/06/2004 dated 30-09-2004, granted permission to fill up two posts of Secondary Grade Teachers, duly following the procedure as laid down in Rules 12 and 13 of G.O.Ms.No.1 Education dated 01-01-1994. Consequent to the said permission, the petitioner-school has invited applications from the eligible candidates by advertisement dated 21-10-2004. On receipt of list of candidates, petitioner has written to the District Educational Officer to fix a date for written test. When no further steps were being taken, the present Writ Petition has been filed.

3. It is the case of the petitioner that though approval has been given for filling up the vacancies as early as on 30-09-2004, respondents are not acting upon it only on the ground that the Government has imposed general ban on recruitment, by memo dated 20-10-2004.

4. Learned counsel for the petitioner submits that the Writ Petition is covered to be allowed in view of several judgments of this Court, wherein this Court has taken a view that the ban cannot be made applicable for the posts for which sanction was accorded prior to the ban coming into force.

5. This Court has ordered notice before admission on 20-02-2006 and directed the matter to be listed on 27-02-2006. Thereafter, the matter underwent two adjournments for filing counter affidavit. When the matter was taken up on 06-03-2006, further time was requested to file counter affidavit; but till today, no counter affidavit has been filed by the respondents.

6. From the material papers filed along with the Writ Petition, it is clear that the District Educational Officer, Guntur, by proceedings dated 30-09-2004, granted permission to fill up two vacant posts of Secondary Grade Teachers.

7. In that view of the matter and also keeping in view of the fact that this Court has already allowed similar Writ Petition, namely, *W.P.No.22188 of 2004 dated 09-12-2004*, holding that the ban cannot come in the way of filling up the posts for which sanction was accorded prior to the ban coming into force; following the aforesaid judgment, this Writ Petition is also allowed. The respondents are directed to fill up two vacant posts of Secondary Grade Teachers in the petitioner-school as per the permission accorded by the District Education Officer, Guntur, the third respondent herein, by his proceedings dated 30-09-2004, by following the necessary procedure as per the rules applicable, within a period of two months from the date of receipt of a copy of this order.

8. Subject to the above directions, the Writ Petition is allowed. No order as to costs.

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**JUSTICE R. SUBHASH REDDY.**

March 14, 2006

**MRR**